## REMARKS

1. *Status of the Application.* Claims 1, 3-21, and 23-50 are pending in the application as examined.[1] In the Office Action, claims 1 and 21 were rejected under 35 U.S.C. § 102, and claims 1, 3-21, and 23-50 were rejected under 35 U.S.C. § 103 based on various combinations of references. Claims 1 and 21 are amended herein. No new matter is added by way of these amendments.

2. *The Section 102 Rejections.* Claims 1 and 21 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,876,653 to McSpadden et al. ("*McSpadden*"). The Office Action alleges that each element of the invention recited in claims 1 and 21 is disclosed by *McSpadden.*

It is believed that claims 1 and 21, as amended herein are clearly distinguished from the prior art, including *McSpadden.* In particular, it is respectfully submitted that the Office Action incorrectly interprets the term "fueling transaction," and in so doing draws analogies between the claimed invention and *McSpadden* that are not, in fact, existent.

*McSpadden* appears to disclose a fuel blending system in which dispensing valves are controlled during each individual fueling transaction based upon monitoring of "volume pulses" that are "indicative of the flow of the product through [fuel] meters 15, 17." *McSpadden*, col. 7, lines 39-40. With the *McSpadden* system, "tracking ratio control is provided for obtaining target goals for each of the first and second products to be blended *during real time dispensing of the products to the blend manifold 39.*" *McSpadden*, col. 8, lines 58-62 (emphasis added). As fuel is being dispensed, the *McSpadden* volume pulses for the blended products are counted, and the valves are controlled in real-time to achieve a desired blending ratio for the products.

The Office Action suggests that "a transaction can be construed to be equivalent to a pulse." It is in this suggestion that it is respectfully submitted that the Office Action is failing to interpret the term "fueling transaction" properly in light of the Specification of the present

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[1] The Office Action suggests that claims 1-21 and 23-50 are pending; however, claims 2 was canceled in a September 7, 2001 Response to Office Action.

application. In one embodiment, *McSpadden* provides that "each volume pulse represents 0.231 cubic inches of fluid," and it is apparent that *McSpadden* contemplates the generation of hundreds or even thousands of volume pulses during any given "blended product dispensing cycle." *McSpadden*, col. 18, line 43; *see also*, *McSpadden*, figure 19.

It is submitted that what the present application refers to as a "fueling transaction" corresponds to what *McSpadden* refers to as a "blended product dispensing cycle." Moreover, it is submitted that *McSpadden* neither teaches nor suggests obtaining data from one or more earlier "blended product dispensing cycles" and using this data to control operation of its dispensing system during a subsequent "blended product dispensing cycle." Rather, *McSpadden* monitors operation of its hydraulic system *during* a "blended product dispensing cycle," necessitating rapid, "real time" computation of actual dispensing ratios and variances from target ratios during each cycle. Nothing in *McSpadden* suggests retaining data from one dispensing cycle to be used in a subsequent dispensing cycle, as disclosed and claimed in the present application.

Independent claims 1 and 21 are amended herein to clarify this important distinction. As amended, claims 1 and 21 call for a fueling transaction to begin with activation of a fuel hook by a customer and end with deactivation of the fuel hook. Support for these elements can be found throughout the specification; *see, e.g.,* Specification, page 22, lines 12-13 and 18-19. By properly interpreting the term "fueling transaction" in this way, it is abundantly clear that the invention is distinguished from *McSpadden*, which neither teaches nor suggests acquisition of data "during a plurality of successive fueling transactions" and comparing such data corresponding to target operation of a hydraulic module. *McSpadden* is limited to acquisition of data during an individual fueling transaction, and such data has no influence whatsoever on subsequent fueling transactions.

In light of the clear distinction between *McSpadden* and the invention disclosed and claimed in the present application, it is respectfully submitted that the § 102 rejection of claims 1 and 21 cannot stand. Reconsideration and withdrawal of that rejection is therefore requested.

3. *The Section 103 Rejections.* Claims 1, 3-21, and 23-50 were rejected under § 103 based on various combinations of references, as discussed below.

Claims 1, 4, 6, 7, 10-12, 17-19, 22, 24, 26, 27, and 30-32 were rejected under § 103 as being unpatentable over U.S. Patent No. 5,163,586 to Zinsmeyer ("*Zinsmeyer*"). It is respectfully submitted that this rejection is improper for precisely the same reason that the § 102 rejection based on *McSpadden* is improper, namely an erroneous interpretation of the term "fueling transaction."

According to the Office Action, "it is construed that the data [in *Zinsmeyer*] is acquired reflecting actual operation of said hydraulic module over time – the time it takes to perform the dispensing operation." While this may be true, this is clearly not the same as acquiring data "over a plurality of successive fueling transactions." As noted in the Office Action, *Zinsmeyer* discloses "receives information in real time during the fuel dispensing operation," but *Zinsmeyer* does not even remotely suggest acquiring data from a plurality of successive "fuel dispensing operations" (to use the Office Action's terminology) and using that data to control operation of a subsequent "fuel dispensing operation."

Claims 3, 5, 8, 9, 16, 20, 23, 25, 28, 29, and 40 were rejected as being unpatentable over *Zinsmeyer* in view of U.S. Patent No. 6,052,629 to Leatherman et al. ("*Leatherman*"). According to the Office Action, *Leatherman* discloses a graphics-based, Internet-based fuel dispenser.

It is believed that the Assignee's remarks already of record in this case continue to be applicable to this § 103 rejection, and in particular the remarks made in the Assignee's March 5, 2002 Preliminary Amendment are reiterated here and incorporated herein by reference. Further, it is respectfully submitted that, in view of the clear distinction between the claimed invention and *Zinsmeyer* discussed above, *Leatherman* adds nothing of substance to render the claimed invention obvious. Reconsideration and withdrawal of the § 103 rejection of claims 3, 5, 8, 9, 16, 20, 23, 25, 28, 29, and 40 is therefore requested.

Claims 13-15 and 33-35 were rejected under § 103 as being unpatentable over *Zinsmeyer* in view of *Leatherman* and further in view of U.S. Patent No. 5,596,501 to Comer et al. ("*Comer*"). Again, it is believed that the Assignee's remarks already of record in this case

continue to be applicable to this § 103 rejection, and reference is again made to the remarks made in the Assignee's March 5, 2002 Preliminary Amendment. Further, it is respectfully submitted that, in view of the clear distinction between the claimed invention and *Zinsmeyer* discussed above, *Leatherman* and *Comer* collectively add nothing of substance to render the claimed invention obvious. Reconsideration and withdrawal of the § 103 rejection of claims 13-15 and 33-35 is therefore respectfully requested.

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## CONCLUSION

In view of the foregoing amendments and remarks, it is believed that each of the pending claims in the present application recites subject matter neither taught nor suggested by the prior art, and that the application as a whole is in proper form and condition for allowance. Reconsideration and withdrawal of the objections and rejections is therefore requested, such that the application may advance to issue at the earliest possible date. If the Examiner believes that the application can be place in even better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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Hugh R. Kress

Hugh R. Kress
Reg. No. 36,574
WINSTEAD SECHREST & MINICK, P.C.
2400 Bank One Center
910 Travis Street
Houston, Texas 77002
(713) 650-2714(voice)
(713) 650-2400 (fax)

ATTORNEY FOR ASSIGNEE

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